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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,101	05/04/2001	Michael A. Fischer	INSL0036	7967

7590 05/11/2005

Gary Stanford  
610 West Lynn  
Austin, TX 78703

EXAMINER

WILSON, ROBERT W

ART UNIT PAPER NUMBER

2661

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/849,101

Applicant(s)

FISCHER ET AL.

Examiner

Robert W. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 and 25-44 is/are allowed.
- 6) ☒ Claim(s) 17-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

  
PHIRIN SAM  
PRIMARY EXAMINER

***Allowable Subject Matter***

1.0 The present invention is directed to a method for sending a programmed retry value which indicates either no retry or a retry count. A frame with the value is transmitted and upon receipt of the frame a retransmission device suppresses retransmission of the frame if the retry value indicates no retries. The closest prior art is Hanson (U.S. Patent No.: 6,546,425 B1). Hanson teaches a device which sends a program frame with a retry value equal to the number of retries and sends a no retry value for continuous retries.

The closest prior art Hanson (U.S. Patent No.: 6,546,425 B1) does not disclose anticipate or render obvious the following claim limitations:

“suppressing retransmission of the frame regardless of the retry count if the retry value indicates no retry” as claimed in Claim 1.

“a transceiver, coupled to the controller, than transmits the frame at least once, that attempts retransmission of the frame up to as many times indicated by the retry count if the retry value indicates the retry count, that does not attempt retransmission of the frame if the retry value indicates no retry” as claimed in Claim 25.

In Addition:

Claims 2-16 are allowed because they depend upon claim 1,  
Claims 26-44 are allowed because they depend upon claim 25.

***Claim Rejections - 35 USC § 102***

2.0 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.0 Claim 17 is rejected under 35 U.S.C. 102(E) as being anticipated by Chintada (U.S. 2004/0187068 based upon continuation filing date 10/24/2000)

Referring to claim 17, Chintada teaches: The packet sending (1<sup>st</sup> transceiver) sets the P bit in the frame (1<sup>st</sup> frame) so that an ACK is not required per Para 0012-0013 & Para 0021-0022 (programming). The packet sending unit (1<sup>st</sup> transceiver) sends the I frame (first frame) via the wireless media (26 per Fig 1) and per Para 0012-0013 & Para 0021-0022 (transmitting). The packet receiving unit (2<sup>nd</sup> transceiver) detects that the P bit is set so that no ACK is required per Para 0012-0013 & Para 0021-0022 (detecting). The packet receiving unit (2<sup>nd</sup> transceiver) does not send an ACK upon successfully receiving the I frame because the P bit is set to no ACK required per Para 0012-0013 & Para 0021-0022 (suppressing).

In Addition Chintada teaches:

Regarding claim 20, programming P bit so that no ACK is required per Para 0012-0013 & Para 0021-0022

***Claim Rejections - 35 USC § 103***

4.0 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Claim Rejections - 35 USC § 103***

5.0 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6.0 Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chintada (U.S. 2004/0187068 based upon continuation filing date 10/24/2000) in view of Hanson (U.S. 6,546,425 B1))

Referring to claim 18, Chintada teaches: The method of claim 17,

Chintada does not expressly call for: wherein said applying a no retry strategy comprises programming a retry strategy field associated with the first frame with a no retry indication

Hanson teaches: wherein said applying a no retry strategy comprises programming a retry strategy field associated with the first frame with a no retry indication per col. 29 line 31-col. 31 line 27

It would have been obvious to one of ordinary at the time of the invention to add the Retry strategy to the method of Chintada in order for the number of retries to be varied.

Referring to claim 19, the combination Chintada and Hanson teach: The method of claim 18,

The combination of Chintada and Hanson do not expressly call for: retry strategy is a frame descriptor

Hanson teaches: retry count is a value associated with a PDU or frame descriptor per col. 29 line 31-col. 31 line 27

It would have been obvious to one of ordinary at the time of the invention to add the Retry frame descriptor to the method of Chintada and Hanson in order for the number of retries to be varied.

7.0 Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chintada (U.S. 2004/0187068 based upon continuation filing date 10/24/2000) in view of Ayyagari (U.S. 2001/0024434 A1 based upon non provisional filing date of 2/23/2000)

Referring to claim 21, Chintada teaches: The method of claim 17,

Chintada does not expressly call for: wherein said programming comprises programming at least one bit of a duration/ID field of the first frame

Ayyagari teaches: wherein said programming comprises programming at least one bit of a duration/ID field of the first frame per Para 0053-0056 and Para 0067-0070

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It would have been obvious to one of ordinary at the time of the invention to add the duration/ID of Ayyatari to the method of Chintada in order to insure that packets do not live longer than their useful lifetime..

Referring to claim 22, Chintada teaches: The method of claim 17,

Chintada does not expressly call for: wherein said programming comprises programming at least one bit of the Quality of Service control field of the first frame.

Ayyagari teaches: wherein said programming comprises programming at least one bit of the Quality of Service control field of the first frame per Para 0053-0056 and Para 0067-0070

It would have been obvious to one of ordinary at the time of the invention to add the QoS of Ayyatari to the method of Chintada in order to be standards compliant.

8.0 Claims 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chintada (U.S 2004/0187068 based upon continuation filing date 10/24/2000) in view of Bunch (U.S 6,198,722)

Referring to claim 23, Chintada teaches: The method of claim 17, and transmitting by a first transceiver in a wireless medium

Chintada does not expressly call for: transmission of a second frame prior to expiration of the a predetermined inter-frame gap period after transmission of a first frame but teaches a timer.

Bunch teaches: that the receiver does not start transmitting unit the transmission time plus the inter frame gap period per col. 15 lines 5-51.

It would have been obvious to one of ordinary at the time of the invention to add transmitting of a second frame before the interframe gap time expires so that there is no collision between frames sent by the receiving unit and frames sent by the transmitting unit.

9.0 Claims 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chintada (U.S 2004/0187068 based upon continuation filing date 10/24/2000) in view of Chintada (U.S. Patent No.; 6,765,869 B2)

Referring to claim 24, Chintada (U.S 2004/0187068 ) teaches: The method of claim 17, and the first transceiver via the wireless medium.

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Chintada (U.S. 2004/0187068 ) does not expressly call for: transmitting a second frame prior to the predetermined acknowledgment period after transmission of the first frame

Chintada (U.S. Patent No.; 6,765,869 B2) teaches: transmitting a second frame prior to the predetermined acknowledgment period after transmission of the first frame  
Col. 3 lines 27-49.

It would have been obvious to one of ordinary at the time of the invention to transmitting a second frame prior to the predetermined acknowledgment period after transmission of the first frame of Chintada (U.S. Patent No.; 6,765,869 B2) to the method of Chintada (U.S. 2004/0187068 based upon continuation filing date 10/24/2000) in order to implement a method in order to avoid collisions.

### ***Response to Amendment***

10.0 Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection. Please refer to the above rejection for details.

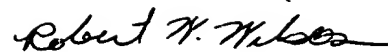
### ***Conclusion***

11.0 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571/272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Robert W Wilson

Examiner

Art Unit 2661

RWW

5/1/05



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